



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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Michael O. Leavitt  
Governor

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Executive Director

Lowell P. Braxton  
Division Director

August 21, 2002

CRR 7099 3400 0016 8895 5040

Ron Stout  
900 Industrial Road  
P.O. Box 251  
St. George, Utah 84770

Re: Mining Operation Not Exempt from Utah Mined Land Reclamation Act, Ron Stout et. al, St George Red Sandstone Project, M/053/073, Washington County, Utah

Dear Mr. Stout:

The Division staff inspected your St. George Red Sandstone project on July 17, 2002 (copy of inspection memo enclosed). This inspection was performed to determine if your operation qualifies for a regulatory exemption under the Utah Mined Land Reclamation Act and its administrative rules.

Based upon our inspection, we have determined that your quarrying activities involve the mining of a consolidated bedrock mineral deposit; therefore, by definition your operation **does not** qualify for a categorical exclusion. Because your operation does mine consolidated bedrock material, it falls under our regulatory jurisdiction. Accordingly, the mine operator must file for and receive a mining permit from the Division of Oil, Gas and Mining.

In an effort to minimize additional regulatory requirements upon your operation, we wish to review and evaluate other applicable permits and surety instruments that may already be in place. We request that within 45 days of your receipt of this notice, you send us copies of the following information:

- 1) any mining and reclamation plan documents that may have already been filed with the city, county; etc. (at a minimum, the mine plan should include a five-year quarry development projection and a detailed reclamation plan for these areas);
- 2) any reclamation surety document(s) that may have been filed with the city, county, or other regulatory agency; to include the amount of the bond and the purpose of the bonding instrument (i.e., royalties, rent, reclamation, etc.);
- 3) a current topographic base map that outlines all existing surface disturbances (and # of acres affected), including processing facilities, buildings, stockpile areas, utilities, and other structures & features associated with the operation (map scale of 1 inch = 200 feet, or larger, is preferable);

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Ron Stout  
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- 4) the assigned permit # and last renewal date, of associated permits you may have received from other regulatory agencies (i.e., Utah Division of Water Quality, Division of Air Quality, BLM, USFS, SITLA, city, county, MSHA, etc.)

Upon receipt of the above listed items, we will review the information under the Minerals Program Administrative Rules to determine if it satisfies our regulatory requirements. If additional information is necessary, or if a formal permit application is required, we will advise you accordingly.

Thank you again for allowing Scott Stratton to accompany us on the inspection and for your cooperation as we jointly work together to ensure conformance with the requirements of the Utah Mined Land Reclamation Act. If you have questions or concerns with this assessment, please contact me at (801) 538-5286.

Sincerely,



cc

D. Wayne Hedberg  
Permit Supervisor  
Minerals Regulatory Program

jb  
Enclosures: 2 - Site Inspection Memos, Meeting Memo, Rules,  
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#### 1 Gratuities.

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411. Conducts, or is seeking to conduct, operations  
that are regulated by the Division; or

412. Has interests that may be substantially af-  
fected by the performance or nonperformance of the  
board member's or employee's official duty.

420. The prohibitions in R645-101-410 do not apply  
in the context of obvious family or personal relation-  
ships, such as those between the parents, children, or  
spouse of the board member or employee and the  
employee, when the circumstances make it clear that  
it is those relationships rather than the business of  
the persons concerned which are the motivating fac-  
tors. A board member or employee may accept:

421. Food and refreshments of nominal value on  
infrequent occasions in the ordinary course of a lun-  
cheon, dinner, or other meeting where a board mem-  
ber or employee may properly be in attendance; and  
422. Unsolicited advertising or promotional mate-  
rial, such as pens, pencils, note pads, calendars, and  
other items of nominal value;

430. Board members or employees found guilty of  
violating the provisions of R645-101-400 will be sub-  
ject to administrative remedies in accordance with  
existing or adopted Utah rules or policies.

#### R645-101-500. Resolving Prohibited Interests.

510. Actions to be taken by the Director:

511. Remedial action to effect resolution. If an  
employee has a prohibited financial interest, the Di-  
rector will promptly advise the employee that reme-  
dial action which will resolve the prohibited interest is  
required within 90 days;

512. Remedial action may include:

512.100. Reassignment of the employee to a position  
which performs no function or duty under the Act; or  
512.200. Divestiture of the prohibited financial in-  
terest; or

512.300. Other appropriate action which either  
eliminates the prohibited interest or eliminates the  
situation which creates the conflict.

513. Reports of noncompliance. If 90 days after an  
employee is notified to take remedial action that the  
employee is not in compliance with the requirements  
of the State Program, the Director will report the facts  
of the situation to the Director of the Office who will  
determine whether action to impose the penalties  
prescribed by the Federal Act should be initiated. The  
report to the Director of the Office will include the  
original or a certified true copy of the employee's  
statement and any other information pertinent to the  
determination by the Director of the Office, including  
a statement of actions being taken at the time the  
report is made.

520. Actions to be taken by the Director of the  
Office:

521. Remedial action to effect resolution. Violations  
of rules under R645-101 by the Director will be cause  
for remedial action by the Governor of Utah, or other  
appropriate state official, based on recommendations  
from the Director of the Office on behalf of the Secre-  
tary of the U.S. Department of the Interior. The  
Governor, or other appropriate state official, based on  
recommendations from the Director of the Office on  
behalf of the Secretary of the U.S. Department of the  
Interior. The Governor, or other appropriate state  
official, will promptly advise the Director that reme-  
dial action which will resolve the prohibited interest is  
required within 90 days;

522. Remedial action should be consistent with the  
procedures prescribed for other Division employees in  
R645-101-512.

#### R645-101-600. Appeals Procedures.

Employees have the right to appeal an order for  
remedial action under R645-101-500, and will have 30  
days to exercise this right before disciplinary action is  
initiated or the matter is referred to the Utah Attor-  
ney General for criminal prosecution.

610. Employees, other than the Director, may file  
their appeal, in writing, pursuant to the provision of  
the State Personnel Management Act (Section 67-19-1  
et seq.).

620. The Director may file his or her appeal, in  
writing, with the Director of the Office who will refer  
it to the Conflict of Interest Appeals Board within the  
U.S. Department of the Interior.

References: 40-10-1 et seq.

History: 15914, 5YR, 07/01/94; 21976, 5YR,  
04/19/99.

#### R645-102. Exemption for Coal Extrac- tion Incident to Government-Fi- nanced Highway or Other Construc- tion.

R645-102-100. Scope and Responsibility.

R645-102-200. Applicability.

R645-102-300. Information to be Maintained on Site.

#### R645-102-100. Scope and Responsibility.

110. Scope.

111. R645-102 establishes the procedures for deter-  
mining those coal mining and reclamation operations  
which are exempt from the Act and the R645 Rules  
because the extraction of coal is an incidental part of  
federal, state, or local government-financed highway  
or other construction.

112. R645-102 exempts the extraction of coal which  
is incidental to government-financed construction  
from the requirements of the Act and the R645 Rules,  
if that extraction meets specified criteria which en-  
sure that the construction is government-financed  
and that the extraction of coal is incidental to it.

120. Responsibility.

121. The Division is responsible for enforcing the  
requirements of R645-102.

122. Any person conducting coal extraction as an  
incidental part of government-financed construction  
is responsible for possessing, on the site of the extrac-  
tion activity, the documentation required by R645-  
102-300.

#### R645-102-200. Applicability.

210. Coal extraction which is an incidental part of  
government-financed construction is exempt from the  
Act and the R645 Rules.

220. Any person who conducts or intends to conduct  
coal extraction which does not satisfy R645-102-210  
will not proceed until a permit has been obtained from  
the Division, pursuant to the State Program.

#### R645-102-300. Information to be Maintained on Site.

Any person extracting coal incident to government-  
financed highway or other construction who extracts  
more than 250 tons of coal or affects more than two  
acres will maintain, on the site of the extraction  
operation and available for inspection, documents  
which show:

310. A description of the construction project;



320. The exact location of the construction, right-of-way or the boundaries of the area which will be directly affected by the construction; and

330. The government agency which is providing the financing and the kind and amount of public financing, including the percentage of the entire construction costs represented by the government financing.

**References:** 40-10-1 et seq.

**History:** 15179, 5YR, 12/15/93; 21327, 5YR, 07/27/98.

### **R645-103. Areas Unsuitable for Coal Mining and Reclamation Operations.**

R645-103-100. General.

R645-103-200. Areas Designated by Act of Congress.

R645-103-300. Utah Criteria for Designating Areas as Unsuitable for Coal Mining and Reclamation Operations.

R645-103-400. Utah Processes for Designating Areas Unsuitable for Coal Mining and Reclamation Operations.

#### **R645-103-100. General.**

110. Scope. R645-103 establishes procedures for implementing the requirements of the Act for designating lands unsuitable for all or certain types of coal mining and reclamation operations, for terminating such designations, for identifying lands on which coal mining and reclamation operations are limited or prohibited under Section 40-10-24 of the Act and for implementing those limits and prohibitions.

120. Authority. The Board and Division are authorized, under Section 40-10-24, to establish a data base and inventory system and a petition process to designate any nonfederal and non-Indian land areas of Utah as unsuitable for all or certain types of coal mining and reclamation operations.

130. Responsibility.

131. The Board and Division will integrate as closely as possible decisions to designate lands as unsuitable for coal mining and reclamation operations with present and future land use planning and regulatory processes at the state and local levels;

132. The Division will use a process that allows any person having an interest which is or may be adversely affected by coal mining and reclamation operations on nonfederal and non-Indian lands to petition the Board to have an area designated as unsuitable for all or certain types of coal mining and reclamation operations, or to have a designation terminated;

133. The Division will prohibit or limit coal mining and reclamation operations on certain lands and in certain locations designated by Section 40-10-24 of the Act.

#### **R645-103-200. Areas Designated by Act of Congress.**

210. Scope. The rules in R645-103-200 establish the procedures to be used by the Division to determine whether a proposed coal mining and reclamation operation can be authorized in light of the mandatory prohibitions set forth in the Act and Federal Act.

220. Federal Lands. The authority to make determinations of unsuitability on federal lands is reserved to the Secretary pursuant to Section 523(a) of the Federal Act.

221. Valid and Existing Rights (VER). VER determinations on federal lands will be performed in a manner consistent with the terms of a cooperative agreement between the Secretary and Utah pursuant to section 523(c) of the Federal Act.

222. VER determinations on nonfederal lands which affect adjacent federal lands will be performed in a manner consistent with the terms of the cooperative agreement referenced in R645-103-221.

223. On federal lands within the boundaries of a national forest the Division will be responsible for coordination with the Secretaries of Interior and Agriculture, as appropriate, to ensure that mining is permissible under 30 CFR 761.11(b) and the Federal Act.

230. Procedures.

231. Upon receipt of a complete application for a permit to conduct coal mining and reclamation operations, the Division will review the application to determine whether coal mining and reclamation operations are limited or prohibited under 40-10-24(4) of the Act or 30 CFR 761.11(a) and (b) on the lands which would be disturbed by the proposed operations.

232. Where the proposed operations would be located on any lands listed in Section 40-10-24(a) and (d) or 30 CFR 761.11, the Division will reject the application if the applicant has no valid existing rights for the area, or if the activity did not exist on August 3, 1977.

233. If the Division is unable to determine whether the proposed activities are located within the boundaries of any of the lands listed in 40-10-24(4)(a) or 30 CFR 761.11(a) and (b) or closer than the limits provided in 40-10-24(4)(d) of the Act, the Division will transmit a copy of the relevant portions of the permit application to the appropriate federal, Utah, or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it has 30 days from receipt of the request in which to respond. The National Park Service or the U.S. Fish and Wildlife Service will be notified of any request for a determination of valid existing rights pertaining to areas within the boundaries of areas under their jurisdiction and will have 30 days from receipt of the notification in which to respond. The Division, upon request by the appropriate agency, will grant an extension to the 30-day period of an additional 30 days. If no response is received within the 30-day period, or within the extended period granted, the Division may make the necessary determination based on the information it has available.

234. Where the coal mining and reclamation operation is proposed to be conducted within 100 feet, measured horizontally, of the outside right-of-way line of any public road (except as provided in 40-10-24(4)(c), or where the applicant proposes to relocate or close any public road, the Division or public road authority designated by the Division will:

234.100. Require the applicant to obtain necessary approvals from the authority with the jurisdiction over the public road;

234.200. Provide an opportunity for a public hearing in the locality of the proposed coal mining and reclamation operation for the purpose of determining whether the interests of the public and affected landowners will be protected;

234.300. If a public hearing is requested, provide appropriate advance notice of the public hearing, to be published in a newspaper of general circulation in the

affected locale at and

234.400. Make information received after completion comment period whether the interested owners will be pricing and reclamation allowed within 1 line of a road, no unless the Division mines that the landowners will

235. Where the tion operations v measured horizon permit applicant written waiver b from the owner owner and signa mining and know will act as conse distance of the d

235.100. When obtained a valid the owner of an o feet of such dwe quired.

235.200. When obtained a valid dwelling, that w subsequent purch tive knowledge of purchase.

235.300. A subs have constructive properly filed in Utah laws, or if operation has pro prior to the date

236. Where the posed coal minin adversely affect a included in the N the Division will t agency with juris or National Regis of the permit appl that agency's app and a notice to th receipt of the req that failure to inte tute approval. Th appropriate agenc 30-day period of interpose an objec period granted, v proposed permit. reclamation opera approved by all ag

237. If the Divi coal mining and r ited under Section 200, it may neve petitions, designat certain types of c tions pursuant to

238. A determin holds or does not h mining and reclam